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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/643,260	08/22/2000	Michael J. May	PPI-117	9021
959	7590	03/25/2004	EXAMINER	
LAHIVE & COCKFIELD, LLP. 28 STATE STREET BOSTON, MA 02109			MITRA, RITA	
			ART UNIT	PAPER NUMBER
			1653	

DATE MAILED: 03/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/643,260

Applicant(s)

MAY ET AL.

Examiner

Rita Mitra

Art Unit

1653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-22 and 28-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22 is/are allowed.
- 6) ☒ Claim(s) 19-21 and 28-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Status of the Claims

Applicants' amendment and response to office action dated June 6, 2003, filed on December 1, 2003 is acknowledged. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. Claim 19 has been amended. New claims 28-46 have been added. Therefore, claims 19-22 and 28-46 are currently pending and are under examination

Response to Remarks and arguments

Rejections under 35 U.S.C. § 102

Rejection of claims 19-21 under 35 U.S.C. 102, over Adams et al. is withdrawn in view of Applicants' amendment to claim 19.

New grounds of Rejection

Claim Rejections - 35 USC § 112, Second Paragraph

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 28-46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 28-46 are indefinite because they are dependent from a canceled claim 1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 19-21, 29 remain/are rejected under 35 U.S.C. 102(b) as anticipated by Rothe et al. (WO 99/01541, January 14, 1999). Rothe et al. teach an IKK-alpha protein, which has 100% sequence identity to SEQ ID NO: 2 (see sequence alignment result, Cao et al., A_Geneseq_101002 database, Accession NO: AAW96182, April 27, 1999). This reads on claims 19, 20 and 21, which has an isolated polypeptide comprising an amino acid sequence selected from the group consisting of SEQ ID NO: 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19, wherein said peptide is less than one-hundred amino acids in length (claim 19); on claim 29, which has an isolated polypeptide comprising the amino acid sequence of SEQ ID NO: 2. See the sequence alignment attached to the Cao et al. reference. As to claims 20 and 21, the Rothe et al. reference discloses a composition comprising the IKK-alpha polypeptide (page 3, line 1) that would have been the composition that contains the peptide of claim 19. Applicants' arguments have been considered but found unpersuasive because the peptide of Cao et al. reference has nine amino acid residues, which is less than one-hundred amino acid residues (see sequence alignment result of AAW96182), thus anticipating claims 19-21, 29 of instant application.

Claims 19, 28, 30 is rejected under 35 U.S.C. 102(b) as anticipated by Cole et al. ("Deciphering the biology of Mycobacterium tuberculosis from the complete genome sequence," Nature, vol. 393, pp 537-544, June 11, 1998). Cole et al. teach an uracil-DNA glycosylase protein, Rv2975c from Mycobacterium tuberculosis, H37Rv strain (see abstract, Fig 5, Table 1), which has 100% sequence identity to SEQ ID NO: 3 (see sequence alignment result, Cole et al., PIR_76, Accession NO: D70672, July 17, 1998). This reads on claim 19, which has an isolated polypeptide comprising an amino acid sequence selected from the group consisting of SEQ ID NO: 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19, wherein said peptide is less than one-hundred amino acids in length (claim 19); on claim 28, which has an isolated polypeptide comprising an amino acid sequence selected from the group consisting of SEQ ID NO: 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19; on claim 30, which has an isolated

polypeptide comprising the amino acid sequence of SEQ ID NO: 3. The peptide of Cole et al. reference has 84 amino acid residues, which is less than one-hundred amino acid residues (claim 19), thus anticipating claims 19, 28 and 30 of instant application. See the sequence alignment attached to the Cole et al. reference.

Conclusion

Claims 19-21, 28-46 are rejected. Claim 22 is allowable.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Inquiries

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rita Mitra whose telephone number is (571) 272-0954. The Examiner can normally be reached from 9:30 a.m. to 6:30 p.m. on weekdays. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Dr. Christopher Low, can be reached at (571) 272-0951. Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Fax Center number is

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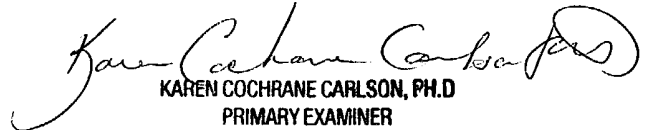
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(703) 872-9306. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-0547.



Rita Mitra, Ph.D.

March 3, 2004



KAREN COCHRANE CARLSON, PH.D.
PRIMARY EXAMINER